

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

KEVIN TERRY

PLAINTIFF

V.

NO. 5:07cv00268 WRW-JWC

EARNEST GOLDEN, et al

DEFENDANTS

ORDER

Plaintiff is a pro se pre-trial detainee currently confined to the Arkansas County Detention Center in DeWitt, Arkansas. On October 19, 2007, Plaintiff filed this 42 U.S.C. § 1983 civil rights action (docket entry #2) along with a separate application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 (docket entry #1), as well as a motion to appoint counsel (docket entry #3).

Plaintiff alleges that he was booked into the jail on August 23 or 24, 2007. He was denied his glasses for the first six days he was incarcerated. On the third day he broke his little toe on the stairs because he misjudged the step due to his inability to see clearly. On September 1, 2007, he was given Advil “when they wanted to give them to [him]” for his toe but he did not see the doctor (Defendant Tracy) until September 13, 2007. Defendant Tracy confirmed that Plaintiff’s toe was broken but failed to give Plaintiff a cast, splint, or medication for the pain, which he is still experiencing.

On the same day he filed his first lawsuit, Plaintiff filed a second § 1983 action (see Case No. 5:07cv00269 JMM/JWC) also alleging the denial of appropriate medical care. Specifically, Plaintiff alleges that he put in a request for a tooth ache on September 20, 2007, and was given Advil for pain “when they wanted to give them.” He did not see the

dentist (Defendant Fish) until October 2, 2007, and two of his top teeth were pulled. The following day he put in a request because he could not eat or sleep and was running a high fever. Another inmate who went with Plaintiff to the dentist the same day had one tooth extracted but was given "Hydrocodone" for pain and Plaintiff received "Propoxyne" (intermittently) which he alleges did not work. Clearly, consolidation of these two cases would result in the most economical use of the parties' and the Court's resources.¹

In accordance with the above, IT IS, THEREFORE, ORDERED that:

1. Case No. 5:07cv00268 and Case No. 5:07cv00269 should be CONSOLIDATED, to continue as one case under Case No. 5:07cv00268.
2. All pleadings should be filed only in the lead case.
3. The Clerk is directed to take the necessary steps to effect consolidation. No chip exchange is necessary.
4. A copy of this order should be filed in both case files.
5. Plaintiff's application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 (docket entry #1, Case No. 5:07cv00269) and motion to appoint counsel (docket entry #3, Case No. 5:07cv00269) are DENIED AS MOOT.

IT IS SO ORDERED this 8th day of November, 2007.

/s/Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

¹ The Honorable Judge Jerry W. Cavaneau is the Magistrate Judge assigned to both cases.